



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Cleta Mitchell, Esq.  
Foley & Lardner LLP  
3000 K Street, # 600  
Washington, DC 20007

NOV 24 2015

RE: MUR 6870  
Thom Tillis Committee and Collin  
McMichael in his official capacity as  
treasurer

Dear Ms. Mitchell:

On September 17, 2014, the Federal Election Commission ("Commission") notified your clients, Thom Tillis Committee and Collin McMichael in his official capacity as treasurer ("Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. At that time, a copy of the complaint was forwarded to your clients. On November 19, 2015, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe that the Committee violated 52 U.S.C. §§ 30116(f) or 30118(a). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Marianne Abely, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Peter Blumberg*  
Peter Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:**

MUR 6870

6 Thom Tillis Committee and  
7 Collin McMichael in his official capacity as treasurer  
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9 **I. INTRODUCTION**

10 This matter was generated by a Complaint filed with the Federal Election Commission,  
11 alleging violations of the Federal Election Campaign Act, as amended (the "Act"), by the Thom  
12 Tillis Committee and Collin McMichael in his official capacity as treasurer ("Committee").

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Background**

15 North Carolina House Speaker Thom Tillis was a candidate for the 2014 U.S. Senate  
16 election in that state.<sup>1</sup>

17 American Crossroads registered with the Commission as an independent expenditure-  
18 only political committee ("IEOPC") on August 10, 2010.<sup>2</sup> As an IEOPC, American Crossroads  
19 may solicit and accept contributions from corporations, individuals, and other federal political  
20 committees in excess of the Act's limits.<sup>3</sup>

21 Disclosure reports filed with the Commission indicate that American Crossroads made  
22 expenditures totaling \$293,313 to produce and air a 30-second advertisement entitled "Guts,"

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<sup>1</sup> On June 11, 2013, Tillis filed a Statement of Candidacy and his primary campaign committee filed a Statement of Organization with the Commission. See Form 2, Statement of Candidacy (June 11, 2013); Form 1, Statement of Organization (June 11, 2013).

<sup>2</sup> See Form 1, Statement of Organization (Aug. 10, 2010). American Crossroads represented that it intends to raise funds in unlimited amounts, but will not use those funds to make contributions to federal candidates or committees, whether direct, in-kind, or via coordinated communications. See Letter from Margee Clancy, Treasurer, American Crossroads (Aug. 9, 2010).

<sup>3</sup> See Advisory Op. 2010-11 (Commonsense Ten).

1 which began airing on April 1, 2014.<sup>4</sup> "Guts" contains footage that was originally part of a video  
2 entitled "Tillis Montage 2" that was created by the Tillis campaign and made publicly available  
3 on Tillis's YouTube channel in February 2014.<sup>5</sup> The available information indicates that  
4 American Crossroads downloaded and used footage from "Tillis Montage 2," which it terms "so-  
5 called B-roll footage," in "Guts."<sup>6</sup> The video footage taken from "Tillis Montage 2" runs for  
6 about nine of the advertisement's 30 seconds and includes video and still shots of the candidate  
7 and the candidate with his wife. The remaining footage in "Guts" includes two seconds of public  
8 television footage showing Speaker Tillis at a podium downloaded from YouTube along with  
9 video and graphics that were apparently created by American Crossroads. The available  
10 information indicates that American Crossroads created all audio content included in the  
11 advertisement.

12 **B. Analysis**  
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14 The information available in the record before the Commission does not demonstrate  
15 that the Committee coordinated the creation or distribution of "Guts" or that it requested that  
16 American Crossroads use its video footage to create the advertisement. First, the Committee  
17 denies that it coordinated the communication and provided a detailed and comprehensive  
18 affidavit signed by Tillis's campaign manager stating that no one connected with the Tillis

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<sup>4</sup> Compl. 1-2. On March 28, 2014, American Crossroads disbursed \$276,823 to the Main Street Media Group LLC for TV/Media placement and \$16,490, on April 1, 2014, to Chatham Light Media LLC for TV/Media production. *See* American Crossroads 24/48 Hour Report of Independent Expenditures (Apr. 1, 2014).

<sup>5</sup> Compl. at 2.

<sup>6</sup> The Complaint alleges that American Crossroads used video footage from two Tillis campaign advertisements — "Let's Clean Up Her Mess" and "Paper Route" — in addition to "Tillis Montage 2" in creating "Guts." Compl. at 2. The two Tillis advertisements and "Tillis Montage 2" contain similar video footage and still shots of the candidate (and the candidate and his wife) in various settings. A comparison of the Tillis advertisements and "Tillis Montage 2" with "Guts" indicates that American Crossroads used video footage from "Tillis Montage 2" and not the two Tillis campaign advertisements in creating "Guts."

MUR 6870 (Thom Tillis Committee)  
Factual and Legal Analysis

1 campaign communicated with American Crossroads regarding the subject advertisement or  
2 requested that American Crossroads republish or disseminate campaign materials.<sup>7</sup> Second,  
3 American Crossroads contends that it obtained the subject video footage from a publicly  
4 available website.<sup>8</sup> Further, there is no available information in the record indicating that the  
5 communication was coordinated. Accordingly, the Commission finds no reason to believe that the  
6 Committee violated 52 U.S.C. §§ 30116(f) or 30118(a).

<sup>7</sup> Tillis Resp. at 1, 3-4. The Tillis Response also includes a sworn affidavit of the Committee's campaign manager, Jordan Shaw, who supervised and managed the campaign's staff and consultants. Shaw denies communicating with American Crossroads or anyone on its behalf regarding any advertising or other communications relating to the Tillis campaign. Based on interviews that Shaw conducted with "all persons" on the Tillis campaign, he states that no one else — including the candidate, the political and financial directors, and the general consultant — communicated with American Crossroads regarding the use of Tillis campaign materials by it or any other third party, and that no one requested that American Crossroads republish or disseminate any campaign materials produced by the Tillis campaign. Aff. of Jordan Paul Shaw ¶¶ 1, 2, 5-10 (Nov. 4, 2014).

<sup>8</sup> American Crossroads Resp. 2, 9.